

Naval Sea Logistics Center

Case Number: 201601061

Report of Command Investigation

21 July 2016

1. Investigator and Location of Working Papers

a. Investigator and Identifying Information

(1) Charlene Noll, Investigator, NT-V, Naval Sea Logistics Center (NAVSEALOGCEN), Mechanicsburg, 717-605-7784; Charlene.Noll@navy.mil.

b. Location(s) of Working Papers

(1) Commanding Officer, Naval Sea Logistics Center, Command Evaluation and Review Office, 00N, 5450 Carlisle Pike, Building 307, Mechanicsburg, PA 17055.

Preliminary Statement

2. Background and Summary

a. Hotline Control Numbers, Dates of Receipt, and Tasking Dates:

(1) Hotline Control Number 201601061; Naval Sea Inspector General (NAVSEA IG) received the complaint dated 05 April 2016, recorded the complaint and the above Hotline Control Number was assigned.

(2) On 01 June 2016, NAVSEA IG had determined the issues identified would not be investigated as a hotline and forwarded the matter to the Commander, Naval Undersea Warfare Center (NUWC).

(3) On 13 June 2016 Naval Sea Logistics Center (NAVSEALOGCEN) formally received the complaint from NUWC for action.

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(4) On 13 June 2016 the Investigator was directed to investigate, on behalf of the Command, two of the Complainant's five original allegations. One of the remaining allegations is being handled by the Office of Special Counsel as the Complainant filed a Whistleblower complaint. The other two, regarding inventory discrepancies, were known issues and one that the transition of NAVSEALOGCEN managing of all Warfare Center (WFC) warehousing intends to rectify.

b. Summary of Complaint.

The Complainant alleges that (1) Mr. Jay SCOTT, involuntarily terminated Mr. John Burke EDWARDS on 22 March 2016 without prior notification less than one year after starting civil service. Mr. EDWARDS further stated that the behavior reason given in the termination letter, (i.e., use of profanity, unprofessional, confrontational and disruptive) was unfounded and has damaged his reputation. (2) The Complainant also alleges that a defense contractor, David RUEHLIN, a contractor employee of Logistics Support Inc (LSI), was failing to physically come to work and produce work of any value and that Mr. Robert STAHL and Mr. Ron AKERS knowingly allowed it to happen over the past two years because of a prior military relationship.

(1) Subject 1: Jason C. SCOTT (Jay), NT-0346-V, NAVSEALOGCEN, Code 633, Division Director, duty station location Keyport WA, immediate supervisor of Mr. EDWARDS.

(2) Subject 2: Robert STAHL (Bob), NT-0346-VI, NAVSEALOGCEN, Code 63, Department Director, immediate supervisor of Mr. SCOTT.

(3) Subject 3: DAVID RUEHLIN, LSI Contractor, performing duties under a NAVSEA 06 contract for NAVSEALOGCEN, contract number unknown, Mr. RUEHLIN is no longer supporting NAVSEALOGCEN under contract as of 29 March 2016.

3. Summary of Allegations

a. Allegation #1: Mr. SCOTT, Mr. EDWARDS' supervisor, failed to give prior notice of unsatisfactory behavior or performance prior to the termination of Mr. EDWARDS in violation of 5 CFR

315.803, Agency action during probationary period, and 315.804, Termination of probationers for unsatisfactory performance or conduct.

Unsubstantiated.

b. Allegation #2: Mr. David RUEHLIN, was employed by LSI and contracted by NAVSEA to support NAVSEALOGCEN but failed to produce work.

This allegation was not investigated. The Complainant alleges contract fraud. It is recommended that the complaint be referred to NAVSEA IG for referral to NCIS as appropriate.

Applicable Standard

4. Applicable Standards

a. 5 CFR § 315.803 Agency action during probationary period (general) states:

"(a) The agency shall utilize the probationary period as fully as possible to determine the fitness of the employee and shall terminate his services during this period if he fails to demonstrate fully his qualifications for continued employment.

(b) Termination of an individual serving a probationary period must be taken in accordance with subpart D of part 752 of this chapter if the individual has completed one year of current continuous service under other than a temporary appointment limited to 1 year or less and is not otherwise excluded by the provisions of that subpart. [73 FR 7187, Feb. 7, 2008]"

b. 5 CFR § 315.804 Termination of probationers for unsatisfactory performance or conduct states:

"(a) Subject to § 315.803(b), when an agency decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this

period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of the agency's conclusions as to the inadequacies of his performance or conduct.

(b) Probation ends when the employee completes his or her scheduled tour of duty on the day before the anniversary date of the employee's appointment. [33 FR 12418, Sept. 4, 1988, as amended at 60 FR 53505, Oct. 16, 1995; 73 FR 7188, Feb. 7, 2008]"

Findings of Fact

5. Mr. EDWARDS was a Career-Conditional Federal employee at NAVSEALOGCEN; Supply Systems Analyst, GS-2003-13, non-supervisor.

6. Mr. EDWARDS was the NAVSEALOGCEN Site Lead for the warehouse at Naval Surface Warfare Center (NSWC) Port Hueneme Division(PHD)in California.

7. Mr. EDWARDS was within his first year of employment with the federal government and subject to a one year probationary period.

8. A probationary termination requires only a termination letter. The law and regulations specifically exclude probationary/trial employees from the procedures that require the use of an opportunity to improve. This exclusion is because the entire probationary period is similar to an opportunity period.

9. Mr. EDWARDS was terminated on 22 March 2016 by letter signed by his immediate supervisor, Mr. Jason (Jay) SCOTT, and hand delivered by Mr. Daniel WARNER, a NAVSEALOGCEN Code 6312 Supervisor. Mr. SCOTT is not physically stationed at the same location as Mr. EDWARDS.

10. Mr. RUEHLIN was an employee of LSI, contracted to support NAVSEALOGCEN with warehouse set up by way of a NAVSEA 06 contract.

11. Mr. EDWARDS was tasked by Mr. STAHL verbally on or about 12 February 2016 to track Mr. RUEHLIN's work hours. Mr. EDWARDS sent an email on 12 February 2016 to Mr. MORALES, Assistant Site Lead for NAVSEALOGCEN at NSWC-PHD, stating such task was assigned.

12. Mr. RUEHLIN was relieved of supporting NAVSEALOGCEN on 29 March 2016, one week after Mr. EDWARDS was terminated.

Complainant Statement

13. On 30 June 2016, Mr. John Burke EDWARDS was interviewed, via telephone, and testified in substance as follows:

a. Mr. EDWARDS stated that he was an employee of NAVSEALOGCEN in Code 633 and that Mr. SCOTT was his immediate Supervisor. Mr. EDWARDS was a Supply System Analyst GS-2003-13 non-supervisory employee. He was the Site Lead for NAVSEALOGCEN's NSWC-PHD Location.

b. Mr. EDWARDS stated that the reasons stated on his termination letter were confrontation with others and bad language, but that the reasons for termination were false and that there was no evidence to support those statements. If there was poor behavior, he stated that he should have had verbal or written counseling, but that no one had contacted him about those concerns. Mr. EDWARDS stated that Mr. AKERS convinced Mr. STAHL and Mr. SCOTT to terminate him because he didn't like him.

c. Mr. EDWARDS stated that problems with his performance or behavior were never discussed with him either verbally or in email; that in 9 months' time he only spoke to Mr. SCOTT about 30 minutes as Mr. SCOTT was always busy. Mr. EDWARDS stated that Mr. SCOTT never discussed his behavior, that "he's making stuff up."

d. Mr. EDWARDS stated that Mr. AKERS was the only one he had issues with; that the root of the issue was not having a Memorandum of Agreement (MOA) in place between NAVSEALOGCEN and PHD, which created situations between them, such as Mr. AKERS pushing responsibilities on to him that he shouldn't have been performing. He further stated that Mr. AKERS would come to his office, instigate confrontation, and try to get Mr. EDWARDS engaged in a petty argument, while Mr. EDWARDS tried to avoid him.

e. Mr. EDWARDS reported to Mr. STAHL and Mr. WARNER that Mr. RUEHLIN was not performing work and that he was planned to report the contract fraud to the Inspector General. Allegedly, Mr. RUEHLIN performed work for both Mr. SCOTT and Mr. STAHL, and Mr. STAHL did not want it reported to the Inspector General.

Subject Testimony

Subject 1: Jason SCOTT, Naval Sea Logistics Center

14. On 14 June 2016, Mr. Jason C. SCOTT was interviewed, via telephone, and testified in substance as follows:

a. Mr. SCOTT stated that he is an employee of NAVSEALOGCEN in Code 633 and that he was Mr. EDWARDS' supervisor.

b. Mr. SCOTT stated that he found Mr. EDWARDS to be a communication challenge. Mr. SCOTT held counseling sessions with Mr. EDWARDS regarding communication. (Ref: Mr. SCOTT's Memorandums for the Record, documenting Employee Performance conversations 24 February 2016 and 25 February 2016).

c. Mr. SCOTT stated that following an email Mr. EDWARDS sent on 25 February, 2016 and included the NSWC-PHD Technical Director, he warned Mr. EDWARDS that appropriate action would be taken if he communicated outside of NAVSEALOGCEN at that level again. Mr. SCOTT stated that Mr. EDWARDS sent additional emails to the NSWC-PHD Technical Director even after being told not to communicate at that level outside of NAVSEALOGCEN without permission (documented in emails 25 February 2016). Mr. EDWARDS stated at least 5 times "you can't tell me what to do" during the 25 February conversation.

d. Mr. SCOTT stated that NAVSEALOGCEN holds meetings quarterly with all Site Leads at its Mechanicsburg location. At such meeting held in December 2016, Mr. EDWARDS told Mr. STAHL and others (about 30 people in attendance) that they were all wrong. Mr. SCOTT further stated that Mr. EDWARDS was not supporting functions he was told to perform for NSWC-PHD and that he refused to complete them.

e. Mr. SCOTT stated that Mr. EDWARDS created a hostile environment and that a contractor (female, could not recall her name) left as a result. He stated that Mr. Ron AKERS had similar issues with Mr. EDWARDS, including an earful of inappropriate language that made Mr. AKERS uncomfortable.

f. Mr. SCOTT stated that Mr. RUEHLIN was contract support for Mr. STAHL. That Mr. STAHL began to have doubts that Mr. RUEHLIN was supporting him.

Subject 2: Robert Stahl, Naval Sea Logistics Center

15. On 15 June 2016 Mr. Robert STAHL, Code 63 Department Director was interviewed and testified in substance as follows:

a. Mr. STAHL stated that on multiple occasions Mr. EDWARDS refused tasks he was directed to do, was out of his lane, and unprofessional, that Mr. EDWARDS made excuses for not getting things done. On multiple occasions Mr. EDWARDS would not follow directions given and refused to do tasks he was directed to complete.

b. Mr. STAHL stated that Mr. EDWARDS publically told Mr. AKERS he was an idiot; Mr. EDWARDS constantly argued and nothing was ever his fault. Mr. STAHL stated that Mr. EDWARDS was given multiple warnings and Mr. SCOTT traveled there frequently to address the issue.

c. Mr. STAHL stated that Mr. RUEHLIN was working for LSI and was contracted to perform warehouse set up. After set up was complete, LSI said if NAVSEALOGCEN wanted to use him for other work then we could. However, after the transfer they didn't have a lot of work for Mr. RUEHLIN and therefore his

services were discontinued based upon the fact that the transfer task was complete and his services were no longer required.

d. Mr. STAHL stated that Mr. RUEHLIN's work was performed in support of a NAVSEA 06L initiative known as OM&S Reuse and Reutilization. Mr. STAHL manages this small effort on behalf of SEA06L. He further stated that Mr. RUEHLIN's main function was to support the transition of OM&S into ERP and efforts that supported identification, cleanup and disposal of OM&S. His efforts and tasks were documented on the monthly contract report provided by the contractor (LSI) to the Contracting Officer's Representative (COR), Ms Gloria Pando-Terrill from SEA06L4. Mr. STAHL stated that there were no communications between him and Ms Pando-Terrill regarding Mr. RUEHLIN's performance.

Witness Statements

Dan Warner, Naval Sea Logistics Center

16. On 20 June 2016, Daniel WARNER, an employee of NAVSEALOGCEN Code 6312 Supervisor, was interviewed and testified in substance as follows:

a. Mr. WARNER is a Supervisor in the Sustainment and Implementation division and reports directly to Mr. Robert STAHL.

b. Mr. WARNER stated that he was present at the December quarterly Site Lead meeting in Mechanicsburg. He stated that he witnessed Mr. EDWARDS getting very loud with Mr. STAHL during the meeting; when it got too heated, Mr. WARNER stated that he "cleared the room."

c. Mr. WARNER stated that Mr. STAHL asked him to travel to NSWC-PHD for three weeks, 7-25 March, 2016 and that David Cease went with him. Upon arrival to the warehouse on 8 March, 2016, Mr. EDWARDS was not receptive to tasks that he was directed to complete such as labeling material and documenting location. Mr. EDWARDS was informed a number of times to do it and refused as Mr. EDWARDS thought it was a waste of time and stated "I'm not doing that!"

d. Mr. WARNER stated that after the first two weeks on site, he recommended that Mr. EDWARDS be terminated as Mr. EDWARDS had an attitude and issues with not doing what he was directed.

e. Mr. WARNER stated that Mr. SCOTT informed him of the authorization to terminate Mr. EDWARDS. Mr. SCOTT offered to fly to PHD, but since Mr. WARNER was on site, and also a Supervisor/Manager of Code 63, he provided the termination letter to Mr. EDWARDS the following morning.

f. Mr. WARNER stated that following Mr. EDWARDS' termination, he remained on site the following week to work with Mr. MORALES as the temporary Site Lead. Mr. MORALES was the Assistant Site Lead prior to Mr. EDWARDS' termination and was asked to act as Site Lead until the position was filled.

g. Mr. WARNER stated that Mr. RUEHLIN was terminated the following week.

h. Mr. WARNER stated that the site completed more work in the 2 months after Mr. EDWARDS was terminated than during the 7-8 months Mr. EDWARDS was there and that it seemed to be a much more pleasant work environment.

Anthony (TJ) Morales, Naval Sea Logistics Center

17. On 8 July 2016, Mr. Anthony J. MORALES, an employee of NAVSEALOGCEN Code 6331, Assistant Site Lead at NSWC-PHD, was interviewed and testified in substance as follows:

a. Mr. MORALES stated that he has known Mr. EDWARDS for eight years, served with him during active duty, and then started working with him in 2015 for NAVSEALOGCEN. Mr. MORALES stated that he and Mr. EDWARDS sat across from each other and had open communication. He stated that Mr. EDWARDS never said anything vulgar or unprofessional.

b. Mr. MORALES stated that Mr. AKERS and Mr. EDWARDS had a personality conflict, and that Mr. AKERS did not like that Mr. EDWARDS was technically knowledgeable.

c. Mr. MORALES stated that he would personally avoid Mr. AKERS, that he is intentionally rude and makes snide remarks, makes people feel uncomfortable. He also stated that Mr. AKERS is incompetent and everyone knows it, that he is wishy-washy and has a hidden agenda.

Ronald Lee Akers, NSWC-PHD, Code 00M

18. On 8 July 2016 Mr. Ronald AKERS, was interviewed by telephone, and testified in substance as follows:

a. Mr. AKERS is a civilian employee of NSWC-PHD, a supervisor in Code 00M. Mr. AKERS stated that he began working with Mr. EDWARDS at the time that NAVSEALOGCEN began taking over warehousing. Mr. AKERS stated that his relationship with Mr. EDWARDS was good until Mr. EDWARDS returned from a group meeting of Site Leads where Mr. EDWARDS said they 'grilled him' and told him he didn't know what he was doing. Mr. EDWARDS blamed Mr. AKERS as he thought it came from Mr. AKERS.

b. Mr. AKERS began to copy Mr. STAHL on emails to Mr. EDWARDS, so Mr. EDWARDS then began to copy his boss, the Technical Director at PHD, on emails to Mr. AKERS.

c. Mr. AKERS stated that he heard Mr. EDWARDS used profanity on a phone call to another PHD employee one time, but just in the conversation while complaining how screwed up he thought things were, not at him personally. Mr. AKERS stated that he did not hear Mr. EDWARDS use profanity at him personally.

Subject Matter Experts

Mona Williams, NUWC-KPT Legal counsel

19. Investigator spoke with Ms. WILLIAMS on 15 June regarding the procedures followed in the termination of Mr. EDWARDS.

20. Ms. WILLIAMS was the Command's legal representative consulted during this process. Ms. WILLIAMS stated that she was involved in the termination from a legal perspective in that she

reviewed policies, procedures, emails sent by Mr. SCOTT and the drafted termination letter.

21. Ms. WILLIAMS stated that termination was contemplated as early as 28 February, and that Mr. EDWARDS, as a probationary employee, was not entitled to notice prior to being terminated.

Analysis

22. In accordance with 5 CFR § 315.804 Termination of probationers for unsatisfactory performance or conduct states:

- (a) Subject to § 315.803(b), when an agency decides to terminate an employee serving a probationary or trial period because his work performance or conduct during this period fails to demonstrate his fitness or his qualifications for continued employment, it shall terminate his services by notifying him in writing as to why he is being separated and the effective date of the action.

23. A probationary termination requires only a termination letter. The law and regulations specifically exclude probationary/trial employees from the procedures that require the use of an opportunity to improve. This exclusion is because the entire probationary period is similar to an opportunity period.

24. Based upon the evidence reviewed and testimony, Mr. EDWARDS was notified several times, by email and verbally regarding his deficiencies in his performance and behavior prior to termination.

Conclusion

25. Allegation #1 is unsubstantiated.

a. Mr. EDWARDS, as a probationary employee, was not entitled to notice prior to being terminated. Legal review of the termination process was performed by the Command's legal counsel.

b. Mr. EDWARDS was disobedient to authority. He refused and failed to carry out work assigned and documented procedures, was disrespectful, and used profanity to other personnel and managers.

c. Mr. EDWARDS was told on several occasions to discontinue contacting anyone outside of his command, to follow procedure and perform tasks assigned. He verbally refused to perform assigned tasks.

Recommendation

26. It is recommended that a detailed Memorandum of Agreement be put into place as soon as possible to alleviate the majority of the issues in the future, i.e, the confusion of roles, assigned responsibilities, communication and Site Lead authority in the future. This recommendation should apply to all Warfare Center sites that are being supported by NAVSEALOGCEN. The MOA should outline specific roles, responsibilities, tasks, communication and authority of both NAVSEALOGCEN employees and the on-site Warfare Center staff and management.

27. It is recommended that Allegation 2 be referred to NAVSEA IG for referral to NCIS for investigation. The Contract is a NAVSEA 06 contract and not NAVSEALOGCEN's contract. The Complainant alleges collusion and fraud in the employment of Mr. RUEHLIN based upon a previous working relationship with Mr. STAHL, and that Mr. RUEHLIN was paid for work not performed.

Documents Reviewed

1. Complaint Referral Letter from Executive Director, NUWC dated 13 June 2016.
2. Complaint Referral Letter to Deputy Commander, NSWC from NAVSEA IG dated 1 June 2016
3. Complaint dated 6 April 2016.
4. 5 C.F.R. § 315.803 - § 315.805.
5. SECNAV INSTRUCTION 12752.1A Disciplinary Actions dated 3 May 2016.
6. Termination letter dated 22 March, 2016.

7. Fitness Report & Counseling Record (W2-06) RCS BUPERS 1610-1 form dated 3 February 2014, Comments on performance of then LT Edwards.
8. Various emails from Mr. Scott supporting testimony.
9. Memorandum for the Record dated 24 February 2016, documented and signed by Mr. Scott.
10. Memorandum for the Record dated 25 February 2016, documented and signed by Mr. Scott.
11. Various emails provided by Mr. Stahl regarding the reporting of Mr. Ruehlin's hours by Mr. Edwards.
12. Various emails provided by Mr. Morales documenting conflict between Mr. Edwards and Mr. Akers.
13. Various emails provided by Mr. Morales documenting Mr. Edwards' attempt to task Mr. Ruehlin.

SMEs Interviewed

1. Ms. Mona Williams, Legal Counsel, NUWC-KYPT.

Witnesses

2. Mr. Daniel K. Warner, NT-2003-V, Supervisor, NAVSEALOGCEN, Code 6312.
3. Mr. Anthony J. Morales, GS-2003-12, non-supervisory, NAVSEALOGCEN, Code 6331.
4. Mr. Ronald Akers, Civilian, Naval Surface Warfare Center Pt. Hueneme Division, Code 00M.

Subjects Interviewed

5. Mr. Jason C. Scott, NT-0346-V, Supervisor, NAVSEALOGCEN, Code 633.
6. Mr. Robert A. Stahl, NT-0346-VI, Department Director, NAVSEALOGCEN, Code 63.